

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
Consolidated Civil Action

**RALEIGH WAKE CITIZENS,
ASSOCIATION, et al.,**

Plaintiffs,

v.

WAKE COUNTY BOARD OF ELECTIONS)

Defendant.

No. 5:15-CV-156-D

CALLA WRIGHT, et al.,

Plaintiffs,

v.

STATE OF NORTH CAROLINA,

Defendant.

No. 5:13-CV-607-D

AFFIDAVIT OF CAROLINE SULLIVAN

Caroline Sullivan, being duly sworn, deposes and says:

1. I am resident of Wake County. I am over the age of twenty-one and familiar with the facts set forth herein. I make this affidavit based on my personal knowledge in support of my Motion to Intervene and Motion for Expedited Relief pursuant to this Court's 9 August 2016 Order.

2. I currently serve on the Wake County Board of Commissioners. I was elected to serve a four-year term based on a countywide vote from residency District 4, as the districts were drawn at that time pursuant to the 2011 redistricting plan. Nearly 260,000 Wake County residents voted for me in 2012, just over 56% of those who voted.

3. I have continued to reside in the District 4 since my election.

4. During 2015, the General Assembly passed N.C. Session Law 2015-4, which devised a new election plan for the Wake County Board of Commissioners. Among other changes, Session Law 2015-4 re-drew the districts and created two new super districts, lettered districts A and B.

5. Pursuant to the election plan for Wake County Board of Commissioners contained in Session Law 2015-4, for the 2016 election I had two choices as a candidate: (a) "old" District 4, which would be a term of only 2 years and which district would no longer exist after those 2 years; or (b) newly-created super district "A," which would result in a four-year term in a district that would continue to exist thereafter.

6. If the election plan for Wake County Board of Commissioners at the time of candidate filing been the plan used in 2012 (the 2011 election plan), I would have filed to run for re-election to the seat in which I presently serve: the District 4 seat.

7. On 4 December 2015, pursuant to the election plan in place under Session Law 2015-4, I timely filed with the Wake County Board of Elections to run in 2016 for the Wake County Board of Commissioners in super district A.

8. The Wake County Board of Elections accepted my filing and my filing fee. There was no challenge to my candidacy or to my qualifications as a candidate.

9. I have campaigned for re-election to the Wake County Board of Commissioners. In addition to having been elected countywide in 2012, in connection with the 2016 election, I have received significant support from the electorate.

10. I am qualified and eligible for election in North Carolina. I have complied in all respects with all conditions imposed on candidates for election to the Wake County Board of Commissioners.

11. The Wake County Board of Elections is a division under the Wake County Board of Commissioners. While serving as a County Commissioner, I was made aware of this lawsuit. Because the Wake County Board of Commissioners has responsibilities in connection with the Wake County Board of Elections, I did not believe it to be appropriate to be involved as a party in this lawsuit. No currently serving county commissioners are plaintiffs on this case. In fact, separate counsel was hired for the Wake County Board of Elections for this case to avoid any conflict, actual or perceived.

12. During the life of the case, no one advised me that if the plaintiffs prevailed, I would not be permitted to stand for election to the Wake County Board of Commissioners.

13. After the Fourth Circuit ruling in this case on 1 July 2016, I sat in the audience during the hearing the Court conducted regarding the appropriate remedial plan for the 2016 election. There was nothing said during that hearing that caused me to believe that my candidacy would be cancelled outright, and that I would be given no opportunity to run in the District 4 County Commissioner race, a seat in which I now serve.

14. The Court's 9 August 2016 Order did not directly state whether there would be a new candidate filing period for either the Wake County Board of Education or the Wake County Board of Commissioners. The day after the Order issued, I became aware of emergency meetings held by the Wake County Board of Elections and the North Carolina State Board of Elections concerning the Wake County races. Thereafter, I became aware that candidate filing re-opened for the Wake County Board of Education pursuant to the election plan adopted by the Court in its 9 August 2016 Order. To my knowledge, there was no statement made about candidate filing for the 2016 Wake County Board of Commissioners.

15. Candidates were allowed to file to run for the 2016 Wake County of Education election from August 11, 2016 to August 17, 2016.

16. On Friday, 12 August 2016, knowing that the Fourth Circuit had ruled that the 2015 law was unconstitutional and that this Court had ordered that the

2011 election plan be used for the county commissioners race, I went to the Wake County Board of Elections to file to run in 2016 from residency District 4: just as I did in 2012. I was not permitted to do so. At that time, I asked for any written direction the Wake County Board of Elections had regarding candidate filing for the county commissioners race; there was none.

17. I did not receive any notice from the Board of Elections that my candidacy was cancelled. Even my filing fee has not been returned. Since the close of the new candidate filing period for the Board of Education closed last week, I have seen a sample ballot online that does not include my name on the ballot anywhere. Specifically, the only candidates listed in the Board of Commissioners District 4 race are: Kenneth (Kenn) Gardner, Republican; and Erv Portman, Democrat. Mr. Portman is a plaintiff in this lawsuit.


18. Through counsel, by letters dated 18 August 2016, I requested that the Wake County Board of Elections and the North Carolina State Board of Elections take action to allow my candidacy for the Wake County Board of Commissioners to proceed in District 4 (attached as Exhibit A). On 19 August 2016, the State Board replied that it would not take any action in connection with my request (attached as Exhibit B). On 22 August 2016, the Wake County Board of Elections issued its written response denying my request (attached as Exhibit C).

Further affiant says not.



Caroline Sullivan

Sworn before me this 22 day of
August, 2016


Notary Public

my commission expires: 3/26/19



CERTIFICATE OF SERVICE

I hereby certify that I have this day electronically filed the foregoing **AFFIDAVIT OF CAROLINE SULLIVAN** with the Clerk of Court using the CM/ECF system which will send notification of such filing to all counsel and parties of record herein.

This the ____ day of August, 2016.

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